

CIMA 3.0-035

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of
Holt, et al.

Application No. 09/449,851

Filed: November 24, 1999

Date: December 8, 1999

For: Taste Masking Rapid Release
Coating System

X

Box DAC
Assistant Commissioner for Patents
Washington, D.C. 20231

PETITION TO ACCORD CORRESPONDENCE FILING
DATE SHOWN ON EXPRESS MAIL "DATE-IN"
(37 C.F.R. 1.10(c))

Sir:

This is a petition to accord the above-identified application a filing date of November 24, 1999, which is the date the application was deposited with the United States Postal Service (U.S.P.S.) with proper postage and the "date-in" shown on the Express Mail Label No. EL458513693US. It is respectfully contended that the date of "November 26, 1999" accorded this correspondence by the PTO is incorrect.

Submitted herewith as EXHIBIT A is an Affidavit of Phyllis Kelly, the applicants' attorneys' Manager of U.S. Patent and Trademark Administration, who establishes when the discrepancy was discovered and that this petition is being filed promptly thereafter.

Submitted herewith as EXHIBIT B is a true copy of the first page of the correspondence which was filed, showing both that the correspondence was mailed as

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231 on December 8, 1999.


(Signature)
Arnold H. Krumholz

Typed or Printed Name of Person Signing Certificate

Application No. 09/449,851

Express Mail Label No. EL458513693US and that the number of the Express Mail was placed thereon prior to mailing.

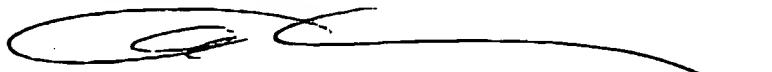
Submitted herewith as EXHIBIT C is a photocopy of a computer report from the U.S.P.S. containing the Express Mail label number of all items mailed under this firm's corporate account (No. 070255) and the mailing date of November 24, 1999. The Express Mail label (EL458513693US) for the above application is highlighted in yellow on the computer report. Also submitted as EXHIBIT D is a true copy of the "Express Mail" mailing label showing the "date-in" of November 24, 1999.

The petition fee in the amount of \$130 or any fee deficiency should be charged to applicants' attorneys' deposit account no. 12-1095.

It is believed that more than sufficient evidence has been provided to establish that the mailing date by Express Mail of the application was November 24, 1999, and that such evidence is corroborated from the U.S.P.S. It is respectfully requested that this petition be granted and the above application be accorded a filing date of November 24, 1999.

Respectfully submitted,

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP



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232755_1.DOC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of :
Holt, et al. :
Application No. 09/449,851 :
Filed: November 24, 1999 : Date: December 8, 1999
For: Taste Masking Rapid Release :
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Assistant Commissioner for Patents
Washington, D.C. 20231

AFFIDAVIT OF PHYLLIS KELLY

I, PHYLLIS KELLY, declare as follows:

1. I am employed by the firm of Lerner, David, Littenberg, Krumholz & Mentlik, LLP as the Manager of U.S. Patent and Trademark Administration. It is one of my responsibilities to ensure that all correspondence mailed to the U.S. Patent and Trademark Office (PTO) via Express Mail includes a receipt date of the "date-in" on the Express Mail label.
2. On December 6, 1999, I received and reviewed the postcard returned by the PTO for the mailing of the above application. The postcard contained a receipt date of November 26, 1999, a date two days after the mailing date via Express Mail of the application.
3. On December 7, 1999, I obtained from the Westfield Post Office the computer report for all items mailed on November 24, 1999 under the firm's corporate account. The report indicated the application containing Express Mail label

Application No. 09/479,851

EL458513693US, the label included on the above application, was mailed on November 24, 1999.

4. These statements are made promptly after receipt of the postcard from the PTO and the computer report from the Post Office.

Date 12/8/99
PHYLLIS KELLY

STATE OF NEW JERSEY : : ss

COUNTY OF UNION :

On this 8th date of December, 1999, before me personally came the above-named Phyllis Kelly to me personally known as the individual who executed the foregoing instrument, who acknowledged to me that the same was executed by her of her own free will for the purposes therein set forth.


Notary Public

232753_1.DOC

DONNA M. F. STEITZ
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires July 2, 2002

LAW OFFICES

LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK, LLP

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NORTH CAROLINA BAR ONLY
 NEW YORK BAR ONLY
 NEW YORK, CONNECTICUT
 AND DISTRICT OF
 COLUMBIA BARS ONLY

November 24, 1999

BOX PATENT APPLICATION
 Assistant Commissioner For Patents
 Washington, D.C. 20231

File No.: CIMA 3.0-035
 Inventor(s): HOLT et al.
 Title : TASTE MASKING RAPID RELEASE COATING SYSTEM

Dear Sir:

Enclosed herewith please find the following documents in the above-identified application for Letters Patent of the United States, which claims the benefit of Provisional Application Serial No. 60/110,032, filed November 25, 1998:

1 Pages of Abstract
 18 Pages of Specification
 21 Number of Claims
 1 Sheets of Drawings A4 11"

Unexecuted Declaration
 (executed Declaration to follow)

One (1) return-addressed postcard

PLEASE PROVIDE FILING DATE AND SERIAL NUMBER

Please charge Deposit Account No. 12-1095 in the amount of \$778.00, calculated as follows:

Basic Fee \$ 760.00

Additional Fees:

Total number of claims (including multiple dependent claims): 21

Total number of claims in excess of 20: 1 x \$18 18.00

Number of independent claims: 2

Number of independent claims minus 3: 0 x \$78 0.00

Fee for multiple dependent claim(s) (\$260) 0.00

TOTAL FILING FEE \$ 778.00

CONVENTIONAL DATE: for Appn. S.N. Is claimed.
 Priority Document: Enclosed Will follow

In the event the actual fee is greater than the payment authorized above, the Patent Office is authorized to charge any deficiency to our Deposit Account No. 12-1095.

Respectfully submitted,

LERNER, DAVID, LITTENBERG,
 KRUMHOLZ & MENTLIK, LLP


 MICHAEL H. TESCHNER

Reg. No. 32,862

B (LBUNEXP) 98078

EXPRESS MAIL LABEL NUMBER: EL458513693US

Label number: EL408448891US
 Weight(lbs/ozs): 3 / 14.4
 Destination: 20231
 Payment Method: Corporate
 Payment Number: 070255
 Acceptance Time: 11/24/99 16:49:33

Label number: EI277467585US
 Weight(lbs/ozs): 0 / 2.1
 Destination: 11714
 Payment Method: Corporate
 Payment Number: 070255
 Acceptance Time: 11/24/99 18:51:10

Label number: EL408448425US
 Weight(lbs/ozs): 0 / 2.8
 Destination: 22202
 Payment Method: Corporate
 Payment Number: 070255
 Acceptance Time: 11/24/99 18:52:58

Label number: EL408440432US
 Weight(lbs/ozs): 0 / 7.0
 Destination: 20231
 Payment Method: Corporate
 Payment Number: 070255
 Acceptance Time: 11/24/99 18:54:14

Label number: EL408440432US
 Weight(lbs/ozs): 0 / 8.9
 Destination: 20231
 Payment Method: Corporate
 Payment Number: 070255
 Acceptance Time: 11/24/99 18:55:29

Total Accepted for Stock Unit: 13

Total No. Paid, Corporate: 5
 Total No. Paid, Federal: 0
 Total No. Paid, Other: 8

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Total Accepted: 13

Grand Total No. Paid, Corporate: 5
 Grand Total No. Paid, Federal: 0
 Grand Total No. Paid, Other: 8

=====

PLEASE ACKNOWLEDGE
RECEIPT BY RETURNING
THIS CARD.

CIMA 3.0-035
Application No. 09/449,851



Petition to Accord Correspondence Filing Date . . .
including Exhibits A-D
Exhibit A - Affidavit of Phyllis Kelly
Exhibit B - True copy of the first page of the correspondence
which was filed
Exhibit C - Photocopy of a computer report from the USPS
Exhibit D - True copy of the "Express Mail" mailing label

PK/tf

Mailed: 12/8/99

63 54